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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,897

Applicant(s)

KASTEN, JON-MICHAEL

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 02/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 15 is objected to because of the following informalities: "claim 12" (line 1) should read --claim 14--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 6, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,154,487 to Warburton.

Warburton discloses a hip control apparatus that includes all the limitations recited in claims 1-3, 5, 6, 10, and 11. Warburton shows a hip control apparatus having a first padded hip support 16 (Fig. 3) on one side of a seat (Fig. 1), a first flexible arm (Fig. 3) extending forward from the first padded hip support, a second padded hip support 18 (Fig. 3) on an opposite side of the seat, a second flexible arm extending forward from the second padded hip support, a seat belt 22 (Fig. 1) with a first segment attached to the first padded hip support and a second segment attached to the second padded hip support, a connector 46,48 (Fig. 3) to secure the first and second segments

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together, a bracket/fastener 38a,42a (Fig. 3) on each of the first and second padded hip supports capable of coupling the apparatus to a seat back of the seat, and a main portion (Fig. 3) of each of the first and second padded hip supports capable of abutting the hip of a person wherein securing the first and second segments together causes the first and second arms to bend around the person, and first and second resilient pads of the first and second padded hip supports are fabricated of foam cell material.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of U.S. Patent No. 5,148,563 to Klearman et al.

Warburton discloses a hip control apparatus that is basically the same as that recited in claims 12, 13, and 18 except that the first and second padded hip supports lack plate structures, as recited in the claims. See Figures 1-3 of Warburton for the teaching that the height of the arm of each of the first and second padded hip supports is less than the height of the respective main portion. Klearman et al. show a hip control apparatus similar to that of Warburton wherein the hip control apparatus has first and second padded hip supports (see Fig. 4) with main portions, arms, and pads, a plate structure 52 (Figs. 3 and 9) extending through the main portions and arms of the first

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and second padded hip supports, and a seat belt (Fig. 4) with first and second segments 66,68 attached to the first and second padded hip supports. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hip control apparatus of Warburton such that the first and second padded hip supports each have a plate structure extending through the main portion and the arm wherein the first and second segments of the seat belt are coupled to the plate structures of the first and second padded hip supports, such as the hip control apparatus disclosed in Klearman et al. One would have been motivated to make such a modification in view of the suggestion in Klearman et al. that the plate structure provides lateral support for the person.

6. Claims 4, 7-9, 14, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Klearman et al. as applied to claims 12, 13, and 18 above, and further in view of U.S. Patent No. 3,640,571 to Keropian.

Warburton, as modified, discloses a hip control apparatus that is basically the same as that recited in claims 4, 7-9, 14, 15, 19, and 20 except that the first and second padded hip supports lack primary and secondary plates as well as first and second anchors, as recited in the claims. See Figures 1-3 of Warburton for the teaching that the first segment of the seat belt has an end portion connected to one component of the connector, the second segment of the seat belt has an end portion connected to another component of the connector, and the first and second resilient pads are attached to both the main portions and arms of the first and second padded hip portions. Keropian shows a hip control apparatus similar to that of Warburton wherein

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the hip control apparatus has first and second padded hip supports 16 (see Fig. 2), brackets 24 of the first and second padded hip supports, a plate structure 66 extending through main portions of the first and second padded hip supports rendering the main portions less flexible, a seat belt 22 with first and second segments coupled to each plate structure, and first and second anchors of the seat belt connected to the brackets. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hip control apparatus of Warburton such that the plate structures of Warburton, as modified, that extend through the main portion and the arm function as resiliently flexible primary plates, the first and second padded hip supports have secondary plates in the main portions rendering the main portions less flexible than the arms, the first and second segments of the seat belt are attached to one of the primary plate, the secondary plate, and the bracket/fastener, the first segment of the seat belt has a first end portion secured to a first anchor attached to the first padded hip support and a second end portion connected to one component of the connector, the second segment of the seat belt has a third end portion secured to a second anchor attached to the second padded hip support and a fourth end portion connected to another component of the connector wherein each of the first and second anchors are connected, via one of the plate structures, to the bracket, such as the hip control apparatus disclosed in Keropian. One would have been motivated to make such a modification in view of the suggestion in Keropian that the plate structures in the main portions of the first and second padded hip supports provide an arching, relatively rigid

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shape to the main portions for fitting laterally against sides of the person, and the anchors allow for attachment of the seat belt to the plate structure via threaded bolts.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Klearman et al. as applied to claims 12, 13, and 18 above, and further in view of U.S. Patent No. 5,354,121 to Allum.

Warburton, as modified, discloses a hip control apparatus that is basically the same as that recited in claim 16 except that the arms lack first and second guides, as recited in the claim. Allum shows a hip control apparatus similar to that of Warburton wherein the hip control apparatus has first and second arms 53,53a (see Fig. 2) of padded hip supports that include first and second guides 57a,57b engaging first and second segments 55a,55b of a seat belt. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hip control apparatus of Warburton such that the first and second padded hip structures has first and second guides attached to the arms and engaging the first and second segments of the seat belt, such as the hip control apparatus of Allum. One would have been motivated to make such a modification in view of the suggestion in Allum that the first and second guides provide retaining loops for the seat belt to be properly aligned around the person.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warburton in view of Klearman et al. as applied to claims 12, 13, and 18 above, and further in view of U.S. Patent No. 4,073,537 to Hammersburg.

Warburton, as modified, discloses a hip control apparatus that is basically the same as that recited in claim 17 except that the main portions lack a circular shape, as recited in the claim. Hammersburg shows a hip control apparatus similar to that of Warburton wherein hip control apparatus has first and second padded hip supports 34 (Fig. 2) with main portions of circular shape. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hip control apparatus of Warburton such that the main portions have a circular shape, such as the hip control apparatus disclosed in Hammersburg. One would have been motivated to make such a modification in view of the suggestion in Hammersburg that the oblong pads may be easily rotated and adjusted to contact the hip, torso, and thigh of the person.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to hip control apparatuses:


U.S. Pat. No. 1,074,615 to Folmer U.S. Pat. No. 4,537,446 to Roney et al.


U.S. Pat. No. 4,846,527 to Julien et al. U.S. Pat. No. 5,915,789 to Ponce De Leon

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JE
July 13, 2005


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